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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/304,976 05/04/99 SILVERMAN

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PM82/1004

EXAMINER

HORTON, Y

| ART UNIT | PAPER NUMBER |
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3635

DATE MAILED: 10/04/00 4P

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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|------------------------------|--------------------------------------|---|
| Office Action Summary | Application No. 09/304,976 | Applicant(s) ARTHUR SILVERMAN |
| | Examiner YVONNE M. HORTON | Group Art Unit 3635 |

Responsive to communication(s) filed on May 4, 1999

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- Claim(s) 1-25 is/are pending in the application.
 Of the above, claim(s) _____ is/are withdrawn from consideration.
- Claim(s) _____ is/are allowed.
- Claim(s) 1-25 is/are rejected.
- Claim(s) _____ is/are objected to.
- Claims _____ are subject to restriction or election requirement.

Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The drawing(s) filed on _____ is/are objected to by the Examiner.
- The proposed drawing correction, filed on _____ is approved disapproved.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All Some* None of the CERTIFIED copies of the priority documents have been
 received.
 received in Application No. (Series Code/Serial Number) _____
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- *Certified copies not received: _____
- Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- Notice of References Cited, PTO-892
- Information Disclosure Statement(s), PTO-1449, Paper No(s). 2
- Interview Summary, PTO-413
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent #5,560,149 to LAFEVRE. LAFEVRE discloses a window assembly (10) including a frame (12) having a pair of jamb portions (28), a header (30), and a sill (32). The frame (12) also includes a movable sash member (16) including a frame (40) having a pair of side rails (42) and interconnecting end rails (44,46). The window assembly of LAFEVRE also includes first (168) and second (166) projecting members; wherein the second projecting member (166) is located on the end rail (44) of the movable sash member (16). The first (168) and the second (166)

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projecting members are positioned adjacent on another in a closed position, see Figure 2a, and

operate to prevent or limit the downward movement of the sash (16) within the frame (12).

LAFEVRE discloses the basic claimed invention except for the first projecting member being located on the frame end portion. Although LAFEVRE does not position his first projecting member on the frame end portion, he does dispose his first projecting portion (168) on the meeting rail (34) of window the frame (12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the meeting rail of the window frame with the projecting portion, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. Regarding claims 2,3,5,7 and 8, the first (168) and second (166) projecting members consist of a rib that is continuous with and projects from the frame portions (34,44). In reference to claims 4,6 and 9-11, the applicant does not disclose any criticality for the projecting members being in the form of a plurality of projecting members. As a matter of fact, the Applicant on Page 7 discloses that the projecting members "may be" continuous or a plurality of segments. Further, although LAFEVRE only discloses a continuous projecting rib, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the rib portions of LAFEVRE in a plurality of segments, since the mere duplication of the essential working parts of a device involves only routine skill in the art.

4. Claims 12-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent #5,560,149 to LAFEVRE. LAFEVRE discloses a window assembly (10) including a frame (12)

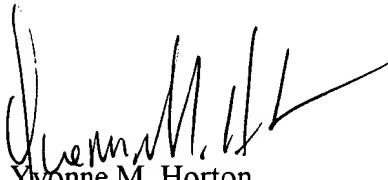
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having a pair of jamb portions (28), a header (30), and a sill (32). The frame (12) also includes a movable sash member (16) including a frame (40) having a pair of side rails (42) and interconnecting end rails (44,46). The window assembly of LAFEVRE also includes first projecting member (168) and a recess (162); wherein the recess (162) is located on the end rail (44) of the movable sash member (16). The first projecting member (168) is received within the recess (162) when the window assembly (10) is in a closed position, see Figure 2a, and operate to prevent or limit the downward movement of the sash (16) within the frame (12). LAFEVRE discloses the basic claimed invention except for the first projecting member being located on the frame end portion. Although LAFEVRE does not position his first projecting member on the frame end portion, he does dispose his first projecting portion (168) on the meeting rail (34) of window the frame (12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the meeting rail of the window frame with the projecting portion, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. Regarding claims 13,14,20 and 21, the first projecting member (168) consists of a rib that is continuous with and projects from the frame portions (34,44). In reference to claims 16 and 23, the applicant does not disclose any criticality for the projecting members being in the form of a plurality of projecting members. As a matter of fact, the Applicant on Page 7 discloses that the projecting members "may be" continuous or a plurality of segments. Further, although LAFEVRE only discloses a continuous projecting rib, it would have been obvious to one having ordinary skill in the art at the time the invention was made to

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form the rib portions of LAFEVRE in a plurality of segments, since the mere duplication of the essential working parts of a device involves only routine skill in the art. Regarding claims 15,17,22 and 24, the recess (162) consists of a groove extending continuously in the frame member (44), see Figure 2b. In reference to claims 18 and 25, again, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the recess portions of LAFEVRE in a plurality of recessed segments, since the mere duplication of the essential working parts of a device involves only routine skill in the art.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Harden whose telephone number is (703) 308-2168.


Yvonne M. Horton
Patent Examiner
Art Unit 3635
September 30, 2000


Carl D. Friedman
Supervisory Patent Examiner
Group 3600